

APPLICANT:
Eric Deutsch

REQUEST: Variance to locate a free-standing sign within the required 20 foot setback of the U.S. Route 40 Commercial Revitalization District

HEARING DATE: October 29, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5615

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Eric Deutsch

LOCATION: 2702 Pulaski Highway, Edgewood
Tax Map: 66 / Grid: 1A / Parcel: 1
First (1st) Election District

ZONING: CI / Commercial Industrial

REQUEST: A variance pursuant to Section 267-13C(1)(g)[3] of the Harford County Code, to permit a freestanding sign within the U.S. Route 40 Commercial Revitalization District in the required 20 foot setback (2 foot setback proposed) in the CI District.

TESTIMONY AND EVIDENCE OF RECORD:

The subject property is approximately 3 acres in size, located in Edgewood on Pulaski Highway, and is zoned CI/Commercial Industrial. The parcel is within the U.S. Route 40 Commercial Revitalization District, and is improved by a self storage facility.

Eric Deutsch, Applicant, explained his request. He wishes to construct a freestanding sign in front of his building, and within 2 feet of his front property line, which requires an 18 foot variance to the required 20 foot setback.

In support of his request, Mr. Deutsch argues the following:

- * His offices are difficult to see from U.S. Route 40
- * His lot has only 120 feet of road frontage, which is an unusually small frontage considering the size of his lot, which is 3 acres.
- * He is surrounded by businesses that currently have signs in approximately the same location as proposed by him.
- * His business needs more exposure.
- * The sign will be consistent with others in the area.
- * At least four to five other businesses have signs at locations similar to that proposed by him.
- * Almost the entire front area of his lot, between his door and his front yard lot line, is in asphalt paving, and to comply with the 20 foot setback would place the sign in the middle of his parking lot.

Case No. 5615 – Eric Deutsch

Mr. Deutsch explained that he has substantially improved the frontage of his property in the past years, including the installation of new shoulders along U.S. Route 40, new parking, new access, and new curb and gutters. Mr. Deutsch offered photographs showing the appearance of his building, the improvements which have been made, the location of the front parking area, and the location of other signs with respect to the subject property. The photographs were accepted as Applicants' No. 1. Mr. Deutsch believes his building was formerly used as a gas station.

Mr. Deutsch described the property on his east side as being occupied by Harford Rental and the property on the west side by the Chase Manor Motel. Each of these properties have signs very close to the State right-of-way.

Mr. Deutsch also offered a photograph showing the general design of the proposed sign, which will have three sides, will be on a stone base, with each face being 6 feet by 6 feet in dimension, including the pedestal. Also in the file is a drawing showing the proposed location and appearance of the sign.

Mr. Deutsch agreed that he would not increase the size of the sign if this variance were granted. If not granted, Mr. Deutsch would be required to place a freestanding sign within his front parking lot, and much closer to the front of his building.

Next testified Anthony McClune of the Harford County Department of Planning and Zoning. Mr. McClune explained that the subject property is within the U.S. Route 40 Commercial Revitalization District, which was created in the year 2000 by the Harford County Council. The purpose of this legislation was to improve the streetscape, and to control signage in the area. Mr. McClune explained that numerous signs exist in the area which are non-conforming; they are all too close to the road. When replaced, these signs will be required to comply with the 20 foot minimum setback.

The Department of Planning and Zoning is concerned about a precedent being set by the granting of this variance. The Department wishes to see the streetscape maintained and the 20 foot setback observed. The granting of the variance would violate those expectations.

Mr. McClune also believes there is an adequate sign location on the west (left) of the subject property, next to the parking area in front of the office. Mr. McClune also stated the sign can be as much as 120 square feet in size. He suggested the sign be located on a pylon.

There was no testimony or evidence given in opposition.

Case No. 5615 – Eric Deutsch

APPLICABLE LAW:

Section 219-17 of the Harford County Code states:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Photographs in the file amply demonstrate that the Applicant has created an attractive commercial use on his approximately 3 acre parcel in the Edgewood area of U.S. Route 40. The property is a self storage facility. The office is what appears to be a converted gas station located approximately 35 feet from the front property line, which begins at the U.S. Route 40 right-of-way. However, because an extensive portion of the right-of-way is unimproved, the front of the building is actually located about 55 feet from the travel portion of U.S. Route 40.

While Mr. Deutsch was somewhat unclear as to past history of his converted office, he believes it was at one time a gas station.

Photographs in the file also adequately support Mr. Deutsch’s statements that he has made extensive improvements to the property. The office building is attractive, and improved by a parking area to the front. The entrance from U.S. Route 40 is obviously newly constructed, as are the curbs and gutters. It is clear that substantial effort (and no doubt money) has been spent improving the property.

Mr. Deutsch also introduced photographs which show the location of signage on properties surrounding his. Those signs are relatively uniform and appear to be very close to the right-of-way line of U.S. Route 40. Certainly, none of these signs appear to comply with the 20 foot setback requirement which is imposed by the Development Regulations. Mr. McClune, however, stated that the property owners will be required, at such time as those signs are to be replaced, to comply with the 20 foot setback.

Case No. 5615 – Eric Deutsch

Mr. Deutsch proposes a pedestal-type, three-sided sign, located in the grassy area to the front of his building, and about 2 feet from his property line (but about 27 feet from the travel portion of U.S. Route 40). Opposing this request, the Department believes that a pole sign can be located 20 feet back from the property line and within the parking lot in such a way that would not be intrusive. The Department also notes that the sign can be as much as 120 square feet in size, as opposed to the approximately 100 square feet sign proposed by Mr. Deutsch, if all three sides, including the pedestal, were included.

While aesthetic considerations cannot be a basis for this decision, and certainly sensibilities of design and appearance are not universally shared, it would appear that the fairly short, compact pedestal sign proposed by Mr. Deutsch would be much more attractive than a pylon sign with much larger signage area.

Nevertheless, the Department makes a valid point in opposing the requested variance because of the negative precedent an approval would establish. The Commercial Revitalization District legislation attempts to encourage good design in the streetscape of the area. If the improvements to the subject property, and adjoining parcels, are true examples of improvements in the area, it would appear that the legislation is achieving its intended result.

While it would, at first glance, appear to be unfair to impose on Mr. Deutsch a burden not (now) shared by his neighbors, in truth it cannot be found that he makes the necessary showing under the variance statute, Section 219-17 of the Code. There was simply no showing made, nor can it be found from the file, that he suffers a practical difficulty or unnecessary hardship due to an irregular shape or the configuration of his lot, or from other unique circumstances. The necessity to comply with setback requirements is not, without more, a sufficient showing of hardship or difficulty.

CONCLUSION:

It is, accordingly, recommended that the requested variance be denied.

Date: November 28, 2007

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on DECEMBER 28, 2007.